

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEMITRIUS E. ALSTON,

Defendant.

8:17CR55

**MEMORANDUM
AND ORDER**

This matter is before the Court on the United States of America's (the "Government") Appeal of the Magistrate Judge's Order, ECF No. 40, denying the Government's Motion to Continue Trial, ECF No. 37.

In an appeal from a magistrate judge's order on a pretrial matter, a district court may set aside any part of the magistrate judge's order shown to be clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); NECrimR 59.2. The Court has reviewed the Order from which this appeal has been taken and finds that the denial of the Government's Motion to Continue Trial was not clearly erroneous or contrary to law. *See, e.g., United States v. Yockel*, 320 F.3d 818, 827 (8th Cir. 2003) (listing the factors to consider when determining whether to grant a continuance).

Accordingly,

IT IS ORDERED:

1. The Government's Appeal of the Magistrate Judge's Order, ECF No. 40, is denied.
2. The Magistrate Judge's Order denying the Government's Motion to Continue, ECF No. 39, is affirmed.

Dated this 12th day of July, 2017.

BY THE COURT:

s/ Laurie Smith Camp
Chief United States District Judge